

5. CHILDREN AND FAMILY LAW CASES - TRIAL LEVEL

(Care and Protection, CHINS and Termination of Parental Rights Petitions)

Attorneys who wish to accept assignments from the trial court in care and protection, CHINS and termination of parental rights cases must (1) apply for admission to the CAFL program; (2) successfully complete all required trainings; (3) work with a mentor assigned through the CAFL program; and (4) attend eight hours of approved continuing legal education each fiscal year.

Application Procedure

Attorneys who wish to apply for certification to accept trial level assignments must complete an application for the Children and Family Law (CAFL) trial panel certification program. Applications are available on the CPCS and MCLE web sites, or may be obtained from the CAFL Certification Coordinator. Attorneys will be notified if they are accepted into the training program.

Training Requirements

Attorneys accepted into the program must attend a five-day seminar, “Children and Family Law Trial Panel Certification Training Program”. Applicants with significant trial experience may apply for a waiver of the last two days of training. The program is administered through Massachusetts Continuing Legal Education (MCLE), and is held several times a year. Newly certified CAFL trial attorneys also must attend a 4-hour seminar, Medical Treatment Decisions for Children in DSS Custody, administered by CPCS and offered once a year.

Once trial panel certified, attorneys must maintain certification through the annual completion of 8 hours of approved continuing legal education on a fiscal year basis. The fiscal year begins on July 1 and concludes on June 30. Newly certified trial panel attorneys are required to satisfy the continuing education requirement in the fiscal year subsequent to the fiscal year certification was received.

Continuing legal education credits may be obtained by attendance at CAFL- sponsored trainings through MCLE or in various regions throughout the Commonwealth, the CPCS Annual Training, or other approved seminars. A list of approved seminars is available on the CPCS web site, www.mass.gov/cpcs. To obtain approval for attending a program that is not on the list, submit a request for approval together with a comprehensive description of the program, including its length and a syllabus describing its contents and faculty, to the Training Director, CAFL Program of CPCS. Attorneys are urged to seek approval prior to attending such programs.

To obtain credit for attending a program, the attorney must submit CLE certificates or proofs of attendance, on or before June 30th of each fiscal year, to the CAFL Certification Coordinator, CPCS, 44 Bromfield Street, Boston, MA 02108, fax-617-988-8455

Assignment of Cases

CPCS provides the Juvenile, District, and Probate Courts with a list of CAFL-certified trial attorneys who wish to accept assignments in particular courts. Courts make assignments from these lists.

Provisional Certification

Attorneys who have satisfied the course training requirements are provisionally certified for the first eighteen months after the assignment of the first case. The attorney must work cooperatively with his or her assigned mentor as required by the CAFL Mentor Program Requirements. The mentor will report to the CAFL program regarding the work of the attorney after the eighteen-month period. The CAFL program will then determine whether the attorney will (a) be certified and permitted to take additional assignments without supervision of a mentor; (b) be permitted to take additional assignments with continued mentor supervision, (c) be permitted to continue to take cases with a limitation on the number of cases allowed and/or type of cases assigned or (d) be removed from the panel and have his/her cases reassigned.

At any time during the provisional certification period the CAFL program may take any of the above actions for good cause shown.

Performance Requirements

By accepting assignments in CAFL cases attorneys agree to abide by all applicable CPCS Performance Standards Governing Representation of Children and Parents in Child Welfare Cases. Copies of the Standards are contained in the CPCS Manual for Assigned Counsel and are on the CPCS website.

6. CHILDREN AND FAMILY LAW APPEALS

Attorneys who wish to apply for certification to accept appellate level assignments must complete an application for the Children and Family Law (CAFL) appellate panel. Applications are available on the CPCS and MCLE web sites, or may be obtained from the CAFL Certification Coordinator. Applicants must send in a completed application, a resume, two legal writing samples, and two references from individuals who have knowledge of the applicant's qualifications, character, integrity, thoroughness and

research and writing abilities. Attorneys will be notified if they are accepted into the training program.

Initial Training Requirements:

Attorneys accepted into the program who are already certified by CPCS to take trial level CAFL appointments must attend the one-day course, “Appealing CPCS Children and Family Law Cases.” Attorneys who are not currently certified by CPCS to take trial level CAFL appointments must attend the one-day course, “Appealing CPCS Children and Family Law Cases” and the three-day portion of the trial panel certification course concerning substantive law. The two-day trial skills portion of the trial panel certification course is not required.

Annual Training Requirements:

Attorneys certified to take CAFL appeals must maintain certification through the annual completion of 8 hours of approved continuing legal education on a fiscal year basis. The fiscal year begins on July 1 and concludes on June 30. Newly certified appellate panel attorneys are required to satisfy the continuing education requirement in the fiscal year subsequent to the fiscal year certification was received.

Continuing legal education credits may be obtained by attendance at CAFL sponsored trainings through MCLE or in various regions throughout the Commonwealth, the CPCS Annual Training, or other approved seminars. A list of approved seminars is available on the CPCS web site, www.mass.gov/cpcs. To obtain approval for attending a program that is not on the list, submit a request for approval together with a comprehensive description of the program, including its length and a syllabus describing its contents and faculty, to the CAFL program of CPCS. Attorneys are urged to seek approval prior to attending such programs.

Attorneys who are certified for both the CAFL trial and appellate panels need only take a total of 8 hours of approved CLEs on a fiscal year basis.

Minimum Qualifications:

1. Two years of legal experience in the field of state intervention law or substantial appellate experience; and
2. Demonstrated proficiency in legal research and writing.

Application Procedure:

Training is held annually and applications are available on the CPCS and MCLE websites and from the CAFL certification coordinator. Applicants must send in a completed application, a resume, two legal writing samples, and two references from individuals

who have knowledge of the applicant's qualifications, character, integrity, thoroughness and research and writing abilities.

CPCS will notify applicants of whether they have been accepted for training. Upon acceptance, attorneys will be given a schedule of training programs.

Provisional Certification:

Attorneys who are accepted for certification are provisionally certified through the filing of at least their first two appellate briefs and oral arguments, if any. For each appellate assignment, the provisionally-certified attorney must work with a mentor who will review transcripts to identify appellate issues and research strategy, edit drafts of briefs prior to submission, authorize the filing of the brief, help the provisionally-certified attorney prepare for oral argument and for other issues related to the appeal. Cooperation with the appellate mentor is required.

After the attorney completes two briefs, the mentor will report to CPCS regarding the provisionally-certified attorney's work. The CAFL Co-Director(s) or her/his designee will determine whether the provisionally-certified attorney (a) may be certified and permitted to take additional appellate assignments without supervision of a mentor, (b) may be permitted to take one or two additional appellate assignments with continued mentor supervision, or (c) may not be certified and may not take additional appellate assignments.

Performance Requirements:

By accepting assignments for CAFL appeals attorneys must abide by the CPCS Performance Standards for the Representation of Clients in Child Welfare Appeals. Copies of the Standards are contained in the CPCS Manual for Assigned Counsel and are on the CPCS website.

Attorneys must submit copies of all briefs filed to the Children and Family Law program, or, if the case is closed before briefing, must notify the Children and Family Law program of the reason the appellate assignment is closed.